

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Peterson McGregor & Associates, Inc.
System ID No. 0036579

Enforcement Case No. 19-15660

Dennis Muth
System ID No. 0255387

Holly M. Barber
System ID No. 0436101

Brian W. McGuinness
System ID No. 0349296

Raquel E. Paulus
System ID No. 0220041

Respondents.

**Issued and entered
on April 13, 2021
by Randall S. Gregg
Senior Deputy Director**

ORDER ACCEPTING STIPULATION

Based upon the Stipulation to Entry of Order and the files and records of the Department of Insurance and Financial Services (DIFS) in this matter, the Senior Deputy Director finds and concludes that:

1. The Senior Deputy Director has jurisdiction and authority to adopt and issue this Order Accepting Stipulation in this proceeding pursuant to the Michigan Administrative Procedures Act of 1969 (APA), as amended, MCL 24.201 *et seq.*, and the Michigan Insurance Code of 1956 (Code), MCL 500.100 *et seq.*
2. All required notices have been issued in this case, and the notices and service thereof were appropriate and lawful in all respects.
3. Acceptance of the Stipulation to Entry of Order is reasonable and in the public interest.
4. All applicable provisions of the APA have been met.

5. Respondents violated Sections 1207(2) and 1905(3)(d) and have provided justification for sanctions pursuant to Sections 1239(1)(b) and (g), 1239(2)(e), and 1239(5) of the Code, MCL 500.1207(2), 500.1239(1)(b) and (g), 500.1239(2)(e), 500.1239(5), and 500.1905(3)(d), by failing to use reasonable accounting methods to record funds received in its fiduciary capacity and to timely return premiums received by or credited to Respondents that were due an insured on policies reduced or canceled, failing to accurately file its bi-annual OPTins Reports and pay the correct amount of surplus lines taxes, improperly withholding or converting money received from policyholders, improperly charging and collecting agency or broker fees from policyholders, and allowing violations to occur at Respondent PMA and not taking corrective action to stop the violations.

Now therefore, based upon the Stipulation to Entry of Order and the facts surrounding this case, **IT IS ORDERED THAT:**

- A. Respondents shall immediately cease and desist from operating in a manner that violates the Code.
- B. Respondents shall not charge an applicant or policyholder an agency, broker, or other fee as a form of compensation for the sale, solicitation, or negotiation of an insurance policy, unless the charging of such a fee is specifically permitted in the Code.
- C. Respondents shall immediately implement procedures to ensure insurance premium refunds or credits are timely returned to policyholders.
- D. Respondents shall immediately implement procedures to ensure their bi-annual OPTins reports are timely and accurately filed and the correct amount of surplus lines taxes are paid.
- E. Respondents shall immediately comply with the provisions of Section 1236 and provide DIFS staff with a copy of Respondents' counselor agreement if Respondents are going to act as an insurance counselor.
- F. Respondents shall pay restitution to the following policyholders:

Security Sanitation, Utility Contractor, Inc., BFO Power Services, Inc., Campbell Elec. Inc., Derrer & Sons Oil Co., Inc., Intelligent Infrastructure, Midwest Powerline, Inc., Mid Thumb Trucking, OnPower, Inc., OnPower Services, LLC, SKF Electrical Contracting, SPE Utility Contractors, Inc., Willey Construction, LLC, WoodWalkers Electrical, and Extreme Powerline Construction. The total amount of restitution to be paid is \$225,000. Such \$225,000 in restitution shall be allocated among the policyholders on a pro-rata basis, based on the ratio of each policyholder's claim to the aggregate amount of claims of all such policyholders.
- G. Respondents shall make monthly payments, but Respondents shall not take more than twelve (12) months from the date of the issuance and entry of this Order to complete the restitution process.
- H. Respondents shall provide DIFS, Office of Insurance Licensing and Market Regulation, Agency Audit Section with proof of payments and receipt of the payments (copy of the front and back of check) by the policyholders every thirty (30) days until the restitution process is completed.

- I. Respondents shall pay to the State of Michigan, through DIFS, administrative and civil fines in the amount of \$7,500.00. Respondents further agree to pay the fine within 30 days of the invoice date as indicated on the DIFS invoice.
- J. If Respondents fail to pay the fines and/or fees in accordance with the terms of this Stipulation and the Order, the fines and/or fees shall immediately increase to \$15,000.00 and shall be immediately due in full, and Respondents' licenses shall be suspended until the fine is paid.
- K. Upon completion of the restitution payments to the policyholders, as provided in paragraph F, and the civil fine, as provided in paragraph I, DIFS waives any further administrative proceedings with respect to alleged improper fees charged by Respondents prior to the date of the issuance of the Order.
- L. The Senior Deputy Director retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as shall be deemed just, necessary, and appropriate in accordance with the Code. Failure to abide by the terms and provisions of the Stipulation to Entry of Order and this Order may result in the commencement of additional proceedings.



Randall S. Gregg
Senior Deputy Director

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

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Brian W. McGuinness
System ID No. 0349296

Raquel E. Paulus
System ID No. 0220041

Respondents.

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STIPULATION TO ENTRY OF ORDER

Peterson McGregor & Associates, Inc., Dennis Muth, Holly M. Barber, Brian W. McGuinness, and Raquel E. Paulus (Respondents) stipulate to the following:

1. On or about October 30, 2019, the Department of Insurance and Financial Services (DIFS) served Respondents with a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondents violated provisions of the Insurance Code of 1956 (Code), MCL 500.100 *et seq.*
2. Specifically, the NOSC contained allegations that Respondents violated Sections 1207(2) and 1905(3)(d) and have provided justification for sanctions pursuant to Sections 1239(1)(b) and (g), 1239(2)(e), and 1239(5) of the Code, MCL 500.1207(2), 500.1239(1)(b) and (g), 500.1239(2)(e), 500.1239(5), and 500.1905(3)(d), by failing to use reasonable accounting methods to record funds received in its fiduciary capacity and to timely return premiums received by or credited to Respondents that were due an insured on policies reduced or canceled, failing to accurately file its bi-annual OPTins Reports and pay the correct amount of surplus lines taxes, improperly withholding or converting money received from policyholders, improperly charging and collecting agency or broker fees from policyholders, and allowing violations to occur at Respondent PMA and now taking corrective action to stop the violations.
3. Respondents neither admits nor denies the allegations contained in the NOSC and desires to avoid the time and expense of formal proceedings and agrees to resolve this matter pursuant to this Stipulation to Entry of Order.

4. All parties have complied with the procedural requirements of the APA and the Code.
5. Respondents agree to immediately cease and desist from operating in a manner that violates the Code.
6. Respondents agree to not charge an applicant or policyholder an agency, broker, or other fee as a form of compensation for the sale, solicitation, or negotiation of an insurance policy, unless the charging of such a fee is specifically permitted in the Code.
7. The parties agree that the Code permits Respondents to charge a counselor fee, if acting as a licensed insurance counselor and if a signed consent form from the applicant or policyholder is obtained, as provided in Sections 1232 – 1236, MCL 500.1232 – 500.1236.
8. Respondents agree to immediately implement procedures to ensure insurance premium refunds or credits are timely returned to policyholders.
9. Respondents agree to immediately implement procedures to ensure their bi-annual OPTins reports are timely and accurately filed and the correct amount of surplus lines taxes are paid.
10. Respondents agree to immediately comply with the provisions of Section 1236 and provide DIFS staff with a copy of Respondents' counselor agreement if Respondents are going to act as an insurance counselor.
11. Respondents agree to pay restitution to the following policyholders:

Security Sanitation, Utility Contractor, Inc., BFO Power Services, Inc., Campbell Elec. Inc., Derrer & Sons Oil Co., Inc., Intelligent Infrastructure, Midwest Powerline, Inc., Mid Thumb Trucking, OnPower, Inc., OnPower Services, LLC, SKF Electrical Contracting, SPE Utility Contractors, Inc., Willey Construction, LLC, WoodWalkers Electrical, and Extreme Powerline Construction. The total amount of restitution to be paid is \$225,000. Such \$225,000 in restitution shall be allocated among the policyholders on a pro-rata basis, based on the ratio of each policyholder's claim to the aggregate amount of claims of all such policyholders.
12. Respondents agree to make monthly payments, but Respondents may not take more than twelve (12) months from the date of the issuance and entry of this Order to complete the restitution process.
13. Respondents agree to provide DIFS, Office of Insurance Licensing and Market Regulation, Agency Audit Section with proof of payments and receipt of the payments (copy of the front and back of check) by the policyholders every thirty (30) days until the restitution process is completed.
14. Respondents agree to pay to the State of Michigan, through DIFS, administrative and civil fines in the amount of \$7,500.00. Respondents further agree to pay the fine within 30 days of the invoice date as indicated on the DIFS invoice.
15. Respondents have had an opportunity to review this Stipulation to Entry of Order and the proposed Order Accepting Stipulation and have the same reviewed by legal counsel.

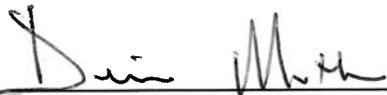
16. Respondents understand and agree that the Senior Deputy Director may, in his sole discretion, decide to accept or reject this Stipulation to Entry of Order. If the Senior Deputy Director accepts the Stipulation to Entry of Order, Respondents waive the right to a hearing in this matter and consent to the entry of the Order Accepting Stipulation. If the Senior Deputy Director does not accept the Stipulation to Entry of Order, Respondents waive any objection to the Director holding a formal administrative hearing and making a decision after such hearing.
17. It is further stipulated that failure to comply with the Order accepting this settlement by failing to pay the restitution as set forth above shall result in the commencement of an action to suspend (or to continue the suspension of) all licenses held by Respondents under the Code.
18. It is further stipulated that the amount of restitution has been negotiated in return for the avoidance of further proceedings and certain promises and conditions, one of which is the timely payment of said restitution. Should Respondents fail to pay the restitution in accordance with the terms of this Stipulation and the Order, the parties agree that an action will commence to determine if the Respondents have, in fact, failed to pay, and, if so, Respondents agree that any unpaid restitution shall be immediately due, and Respondents' license(s) shall be suspended until the restitution is paid.
19. It is further stipulated that the amount of fines and/or fees has been negotiated in return for the avoidance of further proceedings and certain promises and conditions, one of which is the timely payment of said fines and/or fees. Should Respondents fail to pay the fines and/or fees in accordance with the terms of this Stipulation and the Director's Order, the parties agree that an action will commence to determine if Respondents have, in fact, failed to pay, and, if so, Respondents agree that the fines and/or fees will immediately increase to \$15,000.00, and shall be immediately due in full, and Respondents' license(s) shall be suspended until the fine is paid.



**Authorized Representative of Peterson
McGregor & Associates, Inc.**
System ID No. 0036579

4/05/21

Date



Dennis Muth
System ID No. 0255387

4/05/21

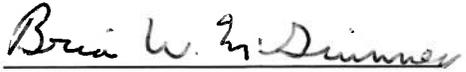
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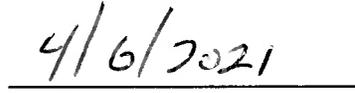
Holly M. Barber
System ID No. 0436101



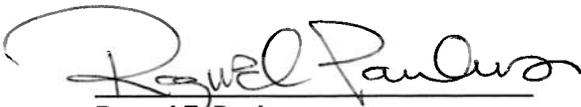
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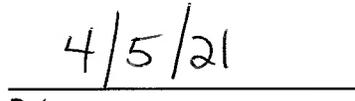
Brian W. McGuinness
System ID No. 0349296



Date



Raquel E. Paulus
System ID No. 0220041



Date

DIFS Staff approve this Stipulation and recommend that the Senior Deputy Director accept it and issue an Order Accepting Stipulation.

William R. Peattie (P48004)
DIFS Staff Attorney

Date

Holly M. Barber
System ID No. 0436101

Date

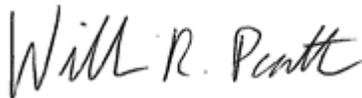
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Date

DIFS Staff approve this Stipulation and recommend that the Senior Deputy Director accept it and issue an Order Accepting Stipulation.



William R. Peattie (P48004)
DIFS Staff Attorney

April 13, 2021
Date